

REMARKS

Claims 1-3 are pending in the application, and are rejected. Claim 1 is herein amended. Claims 2 and 3 are herein canceled.

Claim Rejections - 35 U.S.C. §102

Claims 1 and 2 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,059,954 to Beldham et al. The Examiner asserts that Beldham et al. teaches a liquid level detector wherein a nozzle (16) is arranged in a container (12) containing liquid (14), and air is discharged into the liquid from an opening of said nozzle and the back pressure in said nozzle is detected, thereby the liquid level is detected, and the liquid level detector is characterized by the opening of the nozzle (18) is inclined with respect to the liquid level. Regarding claim 2, the Examiner notes that Beldham et al. teaches wherein the opening of the nozzle is opened in a direction inclined with respect to the axial direction of the nozzle.

Applicants herein amend claim 1 and cancels claims 2 and 3. Subsequently, Applicants submit that the rejection is no longer valid, because not all of the claimed limitations are taught or suggested by the cited references.

Applicants note that Beldham et al. describes that the end of the nozzle is cut at an angle to avoid plugging the nozzle. This appears to be the case because the nozzle of Beldham et al. is in contact with the bottom of the container (Fig.; column 3, lines 9-10).

This is not the intended case of the present invention, in which the nozzle has been purposely located near the desired level of liquid at the top of the container, rather than at the bottom of the container. Figs 3 and 4 of the present invention clearly show the minimal depth of

the tip into the liquid. However, claim 1 prior to amendment appeared to read on the device of Beldham et al.

Applicants herein amend claims to include the limitations of claim 2, and further amend claim 1 to specify the location of the nozzle tip; i.e., nearer to the top of the container than the bottom of the container. Applicants submit that at least this limitation is not taught or suggested by the cited references. Therefore, Applicants submit that a rejection under §102 is improper.

Furthermore, Applicants note that the only reason given for the angled nozzle tip in Beldham et al. is to avoid clogging due to its location near the bottom of the container. If the tip of Beldham et al. were not in contact with or near the bottom of the container, there would have been no suggestion to include an angle cut. Therefore, Applicants note that even if this rejection were one of obviousness rather than anticipation, the rejection would be improper because there was no suggestion to combine the references.

Claims 1 and 3 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,307,397 to Brown et al. The Examiner asserts that Brown et al. teaches a liquid level detector wherein a nozzle (4) is arranged in a container (6) containing liquid (8), and air is discharged into the liquid from an opening of the nozzle and the back pressure in the nozzle is detected, thereby the liquid level is detected (col. 1, lines 20-31), and the liquid level detector is characterized by the opening of the nozzle (4) is arranged to be inclined with respect to the liquid level (Fig. 1). Regarding claim 3, the Examiner further asserts that Brown et al. teaches that the opening of the nozzle (4) is opened in a direction generally perpendicular to the axial direction of the nozzle, and the nozzle is arranged with its axis inclined with respect to the liquid level (Fig. 1).

As noted above, Applicants herein amend claim 1 and cancel claims 2 and 3. Subsequently, Applicants disagree with the rejection, because not all of the claimed limitations are taught or fairly suggested by the cited reference. Claim 1 now recites the limitation from claim 2 wherein said opening of said nozzle is opened in a direction inclined with respect to the axial direction of said nozzle. As the Examiner notes, Brown et al. teaches that the opening of the nozzle (4) is opened in a direction generally perpendicular to the axial direction of the nozzle. Therefore, at least this limitation is not taught or suggested by the cited reference.

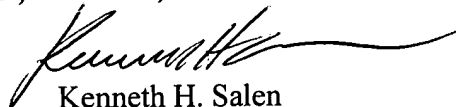
In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Kenneth H. Salen
Attorney for Applicants
Registration No. 43,077

KHS/xxxx
1250 Connecticut Avenue, NW
Suite 700
Washington, D.C. 20036
(202) 822-1100

Q:\2003\030765\030765 Amendment 3-9-04.doc